

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
V.)	CR. NO. 04-10135GAO
)	
THOMAS SCOLA)	
)	

**RESPONSE TO INFORMATION FILED PURSUANT
TO 21 U.S.C. § 851**

Now comes the defendant Thomas Scola, by and through his attorney of record, who hereby responds to the Information filed pursuant to 21 U.S.C. § 851 as follows:

1. Defendant denies this allegation, in as much as he has moved to vacate the prior conviction alleged by the government in the Salem District Court, as a conviction obtained in violation of his constitutional rights.

2. The statute of limitations of 21 U.S.C. § 851(e) is not applicable to the challenged conviction in that the defendant is not moving to collaterally challenge the conviction in this Court but is moving to vacate it as an unconstitutional conviction in the Salem District Court. See, *United States v. McChristian*, 47 F. 3d 1499 (9th cir. 1994)(“[A] careful reading of the statute convinces us that § 851(e)’s purpose was to exclude from federal court only challenges to convictions and not reports of successful collateral challenges completed in state court.”)

Thomas Scola

By His Attorneys

CARNEY & BASSIL

/s/Janice Bassil

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